

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

THE UNITED STATES OF AMERICA

*

v.

*

CRIMINAL NO JKB-16-363

GERALD THOMAS JOHNSON, *et al.*,

*

Defendants.

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ORDER

After consultation with the Administrative Office of the United States Courts, this Court has determined that in a post-trial *Remmer* hearing, former jurors are more appropriately classified as witnesses for purposes of subpoena and compensation. As the government bears the burden of proof in the forthcoming hearing, *Remmer v. U.S.*, 347 U.S. 227, 229 (1954), the jurors will be treated as government witnesses for purposes of ensuring attendance and payment of fees under 28 U.S.C. § 1821. Further, as the jurors will now be treated as witnesses, the portions of the Court's prior order (ECF No. 924) regarding the scheduling of individual jurors' testimony are no longer applicable.

Further, although the Court issued *sua sponte* subpoenas for non-juror witnesses that may be relevant to the forthcoming hearing, the parties are similarly responsible for ensuring the attendance of any non-juror witnesses whom they believe will provide salient testimony in the forthcoming hearing.

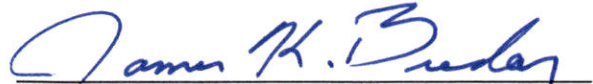
The Court's Jury Section and government counsel shall coordinate to ensure that appearance instructions to the former jurors are clear. Previously, the Jury Section was to coordinate appearances; now the Government shall take that responsibility. Once the former jurors

have entered the courthouse, their movements and sequestration from each other shall be the responsibility of the court staff and the Marshals.

Other than ensuring the appearance of the former jurors, the government shall have no contact and no case-related communication with them; defense counsel remains under a similar constraint. Those witnesses who are not former jurors are not subject to this restriction. This Order does not affect the Court's prior judgment that it will conduct the questioning of former jurors at the *Remmer* hearing. (ECF No. 922.)

DATED this 26 day of March, 2021.

BY THE COURT:


James K. Bedar
Chief Judge